

REMARKS

Claim Amendments

Claims 12, 14-19 are pending in the instant application. Claim 12 has been amended herein to incorporate the subject matter of original Claim 13. Additionally, Claim 13 has been canceled herein. No new matter has been added.

Double Patenting

Claims 12 and 14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over various claims of copending U.S. Application Nos. 10/694,586; 10/694,418 and 09/965,116.

The instant application and copending Application Nos. 10/694,586 and 10/694,418 are divisional applications of Application No. 09/965,116, and were filed in response to Restriction Requirement in the '116 application mailed from the U.S. Patent and Trademark Office on September 9, 2003. The instant application is directed towards Group III as identified in Restriction Requirement in the '116 application, and Application Nos. 10/694,418 and 10/694,586 are directed towards Groups II and IV, respectively.

The third sentence of 35 U.S.C. 121 prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, or on an application filed as a result of such a requirement, as a reference against any divisional application, if the divisional application is filed before the issuance of the patent. Therefore, there can be no double patenting rejection between these applications. Reconsideration and withdrawal of the rejection are respectfully requested.

Additionally, Claims 12 and 14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over various claims of copending U.S. Application Nos. 10/865,245; 11/270805 and 11/153,054.

As stated by the Examiner, this is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented. If this provisional double patenting rejection is the only remaining rejection in the application, Applicants request that the Examiner withdraw the rejection and allow the application to issue as a patent (See MPEP

§804(I)(B)). Applicants will then consider filing a Terminal Disclaimer or take any other action deemed necessary in the later filed, copending applications.

Rejection of Claims 12 and 14 Under 35 U.S.C. §102(e)

Claims 12 and 14 are rejected under 35 U.S.C. §102(e) as being anticipated by Schwartz (Application No 10/365,678).

Claim 12 has been amended herein to incorporate the limitation of Claim 13 as originally filed. Therefore, Claim 12, as amended, is no anticipated by Schwartz. Dependent Claim 14 incorporates all of the limitations of Claim 12, and is also not anticipated by Schwartz.

Reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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